

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	Criminal No. 23 CR 66
	:	
v.	:	
	:	ORDER TO PRODUCE
KIDANE GALLIMORE	:	EXHIBITS FOR REWEIGHING
	:	BY DEFENSE

UPON THE GOVERNMENT’S REQUEST for an order that requires the Government to produce, for inspection and weighing by a defense expert, certain controlled substance exhibits the Government intends to introduce in its case-in-chief, and defense counsel’s consent;

IT IS HEREBY ORDERED, in accordance with Fed. R. Crim. P. 16(a)(1)(E), that the Government shall allow the defense expert to inspect and weigh those exhibits identified as Drug Enforcement Administration (DEA) Exhibit 29, under LIMS Number 2022-SFL2-04985; and

IT IS FURTHER ORDERED that the Government shall deliver, in its discretion and in a manner consistent with the type and quantity of controlled substance at issue, and considering the defense expert’s proximity to the DEA laboratory, those exhibits identified above to the defense expert. The defense expert is specifically identified as National Medical Services (NMS) Labs and the laboratory at which the reweighing will occur is specifically identified as NMS Labs, 2300 Stratford Avenue, Willow Grove, PA 19090. The defense expert shall possess and present in advance, as a prerequisite to the delivery of the exhibits, a current and valid DEA registration sufficient to perform the inspection and weighing of the schedule of controlled substances at issue, in accord and in full

compliance with the applicable DEA registration procedures, found at 21 C.F.R. § 1301.11 *et seq.*; and

IT IS FURTHER ORDERED that upon delivery of the exhibits to the defense expert, the expert shall conduct the inspection and weighing ordered herein and shall provide the Government a Declaration Under Penalty of Perjury pursuant to 28 U.S.C. § 1746. The Declaration will be executed by the expert who conducted the inspection and weighing and will state the weight of each exhibit both received from and returned to the Government; and

IT IS FURTHER ORDERED, in accordance with Fed. R. Crim. P. 16(b)(1)(B), that the defendant shall provide the Government with a copy of the results or reports of the inspection and weighing provided under this Order; and

IT IS FURTHER ORDERED, that:

- (1) The defense expert shall coordinate with the Government a convenient date and time for the inspection and weighing ordered herein, which date shall be within thirty (30) days of the date of this Order;
- (2) The defense expert's inspection and weighing shall be observed by DEA personnel (such as law enforcement agents and/or chemists), who will remain with the exhibits until the weighing is complete and who reserves the right to videotape the inspection and weighing, or any portion thereof;
- (3) All original packaging material to include the evidence envelope must be returned, and to the extent applicable, the defense expert is responsible for repackaging the exhibit, along with all original packaging material in a single heat-sealed envelope or bag, which heat-sealed envelope shall be placed in a

separate heat-sealed envelope or bag, which shall be secured in such a manner that tampering will be readily observable;

- (4) To the extent applicable, the defense expert shall execute any DEA forms necessary to receive temporary possession of the exhibit, including a Form DEA-12 (Receipt for Cash Or Other Items); and that
- (5) The defense expert shall, immediately upon completion of the inspection and weighing ordered herein, return the exhibits to the accompanying Government law enforcement officer, who shall maintain custody of the exhibits and deliver them to a safe and secure location for storage.

Any failure to follow the aforementioned procedures will render the re-weighing results scientifically unreliable, as those terms are used in the Federal Rules of Evidence. In addition, any failure by the defense to maintain the proper chain-of-custody during the reweighing will not render DEA Exhibit Number Exhibit 29 inadmissible for this reason.

SO ORDERED.

Dated: White Plains, New York
February 21, 2024

A handwritten signature in black ink, appearing to read 'Philip M. Halpern', written over a horizontal line.

HONORABLE PHILIP M. HALPERN
United States District Court Judge